

# Comments

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MAY 2 2 2000

May 8, 2000

Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, C.C. 20554

FCC MAIL ROOM

RE: DA 00-764 FCC Order preempting Jefferson County  
Commissioner's denial for rezoning

Dear Secretary:

Why is the Federal government contemplating usurping the authority of the local government (Jefferson County) for DTV (digital tv)? Is DTV needed for National security? And if by some convoluted reasoning it is in the interest of the Federal government to locate DTV in the front range of Jefferson County, why is it that the site just happens to be the site owned by the broadcasters? Is it in the National interest to further line the pockets of this private consortium with more money?

There are other sites to locate DTV along the front range other than Lookout Mountain. The FCC has to be keenly aware of this by now. The broadcasters say they have investigated other sites and they are not as good as the site they own on Lookout Mountain. That is the only criteria they used by the broadcasters, "best broadcast site and we own it". Other criteria affecting people and the environment were not considered by the broadcasters. The Jefferson County Board of Commissioners heard testimony on a wide range of issues related to the deployment of DTV on the broadcasters site (zoned mostly residential) and based on the broadcasters testimony and the testimony of others, the commissioners denied the broadcasters proposal to rezone residential property in a residential neighborhood to commercial.

May I petition the FCC to overrule Jefferson County if I want to construct a DTV tower on the residential property I own on Lookout Mountain?

The FCC in the past has not and does not now monitor the broadcasters (radio frequency emissions) at the Lookout Mountain site. The force that has kept them in check recently is the Jefferson County and the citizens. Obviously the broadcasters control the FCC because now the FCC is considering preventing the County and the local citizens from interfering with the broadcasters thereby making the FCC the only authority that will be monitoring the broadcasters. The FCC will be abusing their Federal authority if the FCC preempts the Counties.

Sincerely,



Paul D. Kalkwarf  
52 Paradise Road, Golden, CO 80401

cc: Jefferson County Board of Commissioners

JUN 8 9 25 AM '00

VIDEO SERVICES  
DIVISION

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MAY 23 P 5:19

CONSUMER INFORMATION BUREAU

CIB-CIND

Megalie R. Salas  
Secretary, Federal Communications Commission  
445 12<sup>th</sup> Street S.W.  
Washington, DC 20554

2000 MAY 23 A 11: 31

RE: DA 00-764  
Lake Cedar Group Petition "PETITION FOR EXPEDITED SPECIAL RELIEF AND  
DECLARATORY RULING" to preempt Jefferson County Denial of Supertower

Dear Ms. Salas:

I observed over the course of many months in 1998 and 1999 the conscientious process of the Jefferson County Board of County Commissioners in review of an application by the Lake Cedar Group, LLC, to rezone land on Lookout Mountain to allow for the construction of an 854-foot telecommunications supertower and adjacent support building. There was an exhaustive and thorough review. The possibility that our community of more than 9,000 people would suffer the effects of even greater levels of electromagnetic radiation was cause for great anxiety. We were enormously relieved by the Commissioners' rejection of the application.

I am assured that alternative (and, most importantly, non-residential) sites to house the digital supertower do exist and would urge the Lake Cedar Group to explore those sites. Instead, I understand that they have petitioned the FCC to override the local authority in this matter. I ask that you respect the thoughtful decision-making of the Jefferson County Board of County Commissioners over what is a complex set of local zoning and other issues. To do otherwise would set a regrettable and dangerous precedent for our country.

Sincerely,

I, Peter M. Bates, certify that on this 8 day  
of May, 2000, I mailed a copy of this filing to:

Edward W. Hummers, Jr., J. Steven Rich  
Holland & Knight LLP  
Suite 400  
2100 Pennsylvania Avenue, N.W.  
Washington, DC 20037-3202

Signed by: Peter M. Bates

cc: Frank Hutfless, Jefferson County Attorney; Deborah Carney, C.A.R.E. Attorney;  
Senator Wayne Allard; Peter Jacobson, Senator Allard's Office; Senator Ben Nighthorse  
Campbell; Congressman Tom Tancredo; Congressman Scott McInnis; Congresswoman  
Diana DeGette; Congressman Mark Udall

JUN 8 9 25 AM '00

VIDEO SERVICES  
DIVISION

Received

MAY 24 2000

Megalie R. Salas  
Secretary, Federal Communications Commission  
445 12<sup>th</sup> Street S.W.  
Washington, DC 20554

Common Carrier Bureau  
Network Services Division  
Office of the Chief

RECEIVED

MAY 17 2000

FCC MAIL ROOM

Common Carrier Bureau  
Network Services Division  
Office of the Chief

Received  
MAY 24 2000

RE: DA 00-764

Lake Cedar Group Petition "PETITION FOR EXPEDITED SPECIAL RELIEF AND  
DECLARATORY RULING" to preempt Jefferson County Denial of Supertower

Dear Ms. Salas:

I observed over the course of many months in 1998 and 1999 the conscientious process of the Jefferson County Board of County Commissioners in review of an application by the Lake Cedar Group, LLC, to rezone land on Lookout Mountain to allow for the construction of an 854-foot telecommunications supertower and adjacent support building. Theirs was an exhaustive and thorough review. The possibility that our community of more than 9,000 people would suffer the effects of even greater levels of electromagnetic radiation was cause for great anxiety. We were enormously relieved by the Commissioners' rejection of the application.

I am assured that alternative (and, most importantly, non-residential) sites to house the digital supertower do exist and would urge the Lake Cedar Group to explore those sites. Instead, I understand that they have petitioned the FCC to override the local authority in this matter. I ask that you respect the thoughtful decision-making of the Jefferson County Board of County Commissioners over what is a complex set of local zoning and other issues. To do otherwise would set a regrettable and dangerous precedent for our country.

Sincerely,

*Leslie Collins*  
66 S. Lookout Mtn Rd.  
Golden, CO 80401

I, Leslie Collins, certify that on this 9<sup>th</sup> day  
of May, 2000, I mailed a copy of this filing to:

Edward W. Hummers, Jr., J. Steven Rich  
Holland & Knight LLP  
Suite 400  
2100 Pennsylvania Avenue, N.W.  
Washington, DC 20037-3202

Signed by: *Leslie Collins*

cc: Frank Hutfless, Jefferson County Attorney; Deborah Carney, C.A.R.E. Attorney;  
Senator Wayne Allard; Peter Jacobson, Senator Allard's Office; Senator Ben Nighthorse  
Campbell; Congressman Tom Tancredo; Congressman Scott McInnis; Congresswoman  
Diana DeGette; Congressman Mark Udall

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2000 MAY 17 PM 5:56

CONSUMER INFORMATION BUREAU

# **Reply Comments**



## Board of Mayor & Alderman

Wm. Todd Holt, Alderman

May 25, 2000

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JUN 12 2000

FCC MAIL ROOM

Ms. Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Dear Ms. Salas:

On behalf of the City of Sevierville, I am writing to support the Comments of Jefferson County, Colorado in Docket number DA 00-764.

As noted in the Comments of Jefferson County, federal agencies do not have the authority to intervene in local zoning decisions and the Telecommunications Act of 1996 does not give the Commission authority to preempt local land use authority over broadcast towers.

Section 332 (c), 47 U.S.C. § 332 (c), generally preserves local zoning authority and only preempts this authority under a limited set of circumstances for wireless facilities. It does not include television broadcast towers. The Commission does not have the authority to preempt the zoning authority of the Jefferson County Board and the Commission should not grant the Cedar Lake Group's request.

In addition, local zoning decisions must weigh important local interests. Land use decisions are a core function of local government. This principle is well rooted and should not be disturbed absent strong Congressional intent, which does not exist here. Consequently, the Commission is not in a position to be able to weigh these local interests. There are no guidelines or criteria for the Commission to make these decisions. Without the authority or experience to make this local decision, the Commission should not attempt to do so.

Respectfully submitted,

Wm. Todd Holt  
Alderman  
City of Sevierville, Tennessee

WTH/rit

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

**ORIGINAL**

**RECEIVED**

**JUN - 8 2000**

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

In the Matter of )  
 )  
Canyon Area Residents for the Environment ) DA 00-764  
Request for Review of Action Taken Under )  
Delegated Authority on a Petition for )  
an Environmental Impact Statement )

To the Commission:

**REPLY COMMENTS**  
**OF ROCKY MOUNTAIN PUBLIC BROADCASTING NETWORK, INC.**

Rocky Mountain Public Broadcasting Network, Inc. ("Rocky Mountain"), by its attorneys, submits these Reply Comments in the captioned proceeding.

Rocky Mountain is member of the Lake Cedar Group, LLC and the licensee of noncommercial educational television Station KRMA, Denver, Colorado. Rocky Mountain fully supports the comments of LCG in this proceeding and files these separate Reply comments only for the purpose of explaining the particular significance of the proposed multi-user tower to public broadcasting in the Denver area.

**BACKGROUND**

Station KRMA is a local institution with deep roots in Denver. In 1956, its Station KRMA began service to the metropolitan Denver area with ten hours of weekly programming produced by a handful of Denver educators. Station KRMA now provides a round-the-clock public TV schedule of quality news, entertainment, education, and public service programming to residents of the Denver area and, in connection with Rocky Mountain's other stations and interconnection facilities, to other areas in Colorado.

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List A B C D E

Station KRMA addresses regional issues through its locally produced program, *The State of Colorado*, which went on the air in January of 1978. Since then, the program has provided a weekly roundtable of newspaper reporters providing additional background on the stories of the week. The program regularly focuses on local government, politics, and economic items. Rocky Mountain also produces other award-winning local programs, such as: *Rocky Mountain Legacy* and *Spirit of Colorado*, fascinating sagas from out of the past; *Klondike and Snow A Tale of Twin Polar Bears*, the story of the first year of the life of twin polar bear cubs that arrived at the Denver Zoo just minutes after birth; tales of the Western Slope on *Western Bounty*; and high quality entertainment and superb educational programs on *Matchwits* and *Homework Hotline*.

Station KRMA devotes almost 25 percent of program time to children's programs. In addition, Rocky Mountain serves as an educational resource for a half-million Colorado students. Rocky Mountain offers teacher resources, including: *Instructional Television*, *Mathline*, *Scienceline*, *NTTI* - National Teacher Training, *TV for Teachers*, *Reading Rainbow*, *NOVA Network*, *PBS Teacher Source*, as well as preschool services, such as: *Ready to Learn*, television as an educational resource for parents and caregivers, *Sesame Street PEP*, Preschool Education Project, providing training for daycare providers; and Parent Resources.

Rocky Mountain is involved in the Denver community. Act Against Violence, the two-year campaign to raise awareness and decrease violence in Colorado schools, continues as a critical skills project. Teaching Media Literacy teaches students to become critical viewers of media.

More than 70,000 households, 150 local and regional companies, and many charitable foundations provide financial support for Rocky Mountain's public broadcasting and educational operations and outreach.



## DISCUSSION

For the reasons given in the LCG Reply Comments, Rocky Mountain fully supports Commission preemption of the zoning decision of the Board of County Commissioners of Jefferson County, Colorado so that a multi-user tower can be constructed on Lookout Mountain. The multi-user tower will vastly serve the public interest.

First, the multi-use tower will result in the immediate dismantling of Rocky Mountain's existing tower on Lookout Mountain, permitting the collocation of the KRMA NTSC antenna, two FM radio station antennas, and the KRMA DTV antenna on the single, new structure. Thus, the multi-use tower will permit consolidation of multiple broadcast antenna structures into one structure, which will result in far more cost-effective operations for Rocky Mountain. Obviously, Rocky Mountain needs to be a careful steward of federal, state and other funds for public broadcasting, especially as it plans for conversion to digital TV. The tower consolidation will also promote safety and aesthetic concerns, since there will be fewer broadcast towers on Lookout Mountain.

If Rocky Mountain is forced to pursue an alternative to the multiple use tower, it will need two separate tower sites for its NTSC and DTV operations. This alternative will present an unduly costly burden for a public broadcaster. In addition, Station KRMA operates on TV Channel 6 and, therefore, must be collocated with the noncommercial educational radio stations that share its current tower in order to avoid Channel 6 interference. Moreover, if Station KRMA's NTSC and DTV signals are located on towers on different mountains, viewers may not be able to position over-the-air reception devices in a way that will allow interference-free viewing of both the NTSC and DTV signals of Station KRMA. Thus, KRMA viewers may be forced to choose between viewing the analog NTSC signal or the DTV signal. Certainly, as the

FCC is well aware, collocating NTSC and DTV stations makes enormous sense in furthering the Commission's stated goal of replicating NTSC service areas and ensuring universal service to the public of digital TV signals.

Finally, preemption in these circumstances serves the public interest, as express by Congress in Section 396(a) of the Communications Act of 1934, as amended. Congress has declared that:

(5) it furthers the general welfare to encourage public telecommunications services which will be responsive to the interests of people both in particular localities and throughout the United States, which will constitute an expression of diversity and excellence, and which will constitute a source of alternative telecommunications services for all of the citizens of the Nation;

(7) it is necessary and appropriate for the Federal Government to complement, assist, and support a national policy that will most effectively make public telecommunications services available to all citizens of the United States;

(9) it is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies;

47 U.S.C. Sec. 396(a)(5), (7) & (9) (1997) (emphasis added).

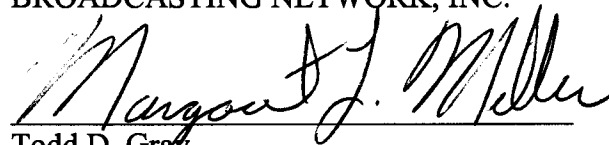
Rocky Mountain's inauguration of DTV service to public television viewers in the Denver area in a manner that allows reception by all citizens in the Denver area clearly serves these compelling public interest goals.

### CONCLUSION

For the reasons given above and in the Reply Comments of LCG, Rocky Mountain respectfully requests that the Commission issue an Order preempting the resolution of the Board of County Commissioners of Jefferson County, Colorado so as to permit the construction of the proposed multi-user tower on Lookout Mountain.

Respectfully submitted,

ROCKY MOUNTAIN PUBLIC  
BROADCASTING NETWORK, INC.

A handwritten signature in cursive script, appearing to read "Margaret L. Miller", written over a horizontal line.

Todd D. Gray  
Margaret L. Miller  
Its Attorneys

Dow, Lohnes & Albertson, PLLC  
1200 New Hampshire Avenue, N.W.  
Washington, DC 20036-6802

202-776-2571  
202-776-2914

June 8, 2000

### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments of Rocky Mountain Public Broadcasting Network, Inc. was mailed, first class, postage prepaid, this 8th day of June, 2000, to the following:

Richard M. Schmidt, Jr.  
Roy R. Russo  
Cohn and Marks  
1920 N Street, N.W.  
Suite 300  
Washington, D.C. 20036-1622

Leo Bradley, Esq.  
Bradley, Campbell, Carney & Madsen  
1717 Washington Avenue  
Golden, Colorado 80401

Colorado Counties, Inc.  
1700 Broadway  
Suite 1510  
Denver, CO 80290

Mark N. Lipp, Esq.  
Scott C. Cinnamon, Esq.  
Shook, Hardy & Bacon L.L.P.  
600 14<sup>th</sup> Street, N.W.  
Suite 800  
Washington, D.C. 20005

Henry L. Baumann  
National Association of Broadcasters  
1771 N Street, N.W.  
Washington, D.C. 20036

The Honorable William Kennard  
Chairman  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, S.W.  
Suite 8-B201  
Washington, D.C. 20554

Scott Albertson  
Holley, Albertson & Polk  
1667 Cole Blvd.  
Building 19, Suite 100  
Golden, Colorado 80401

John W. Pestle  
Matthew D. Zimmerman  
Varnum, Riddering, Schmidt  
& Howlett LLP  
333 Bridge Street, N.W.  
Grand Rapids, MI 49504

Thomas G. Tancredo  
Congress of the United States  
House of Representatives  
1123 Longworth Building  
Washington, D.C. 20515

The Honorable Gloria Tristani  
Commissioner  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, S.W.  
Suite 8-B201  
Washington, D.C. 20554

The Honorable Harold Furchtgott-Roth  
Commissioner  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, S.W.  
Suite 8-B201  
Washington, D.C. 20554

The Honorable Michael Powell  
Commissioner  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, S.W.  
Suite 8-B201  
Washington, D.C. 20554

Honorable Patricia A. Holloway, Chair  
Board of County Commissioners of  
Jefferson County  
100 Jefferson County Parkway  
Golden, Colorado 80419-5500

Honorable Richard M. Sheehan  
Board of County Commissioners of  
Jefferson County  
100 Jefferson County Parkway  
Golden, Colorado 80419

Claire B. Levy, Esq.  
Claire B. Levy, LLC  
3172 Redstone Road  
Boulder, Colorado 80303  
Counsel for Board of County  
Commissioners of  
Jefferson County and Jefferson County  
Colorado

The Honorable Susan Ness  
Commissioner  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, S.W.  
Suite 8-B201  
Washington, D.C. 20554

Bruce Romano  
Acting Chief-Engineering Policy  
Policy and Rules Division  
Mass Media Bureau  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, S.W.  
Room 2C226  
Washington, D.C. 20554

Honorable Michelle Lawrence  
Board of County Commissioners of  
Jefferson County  
100 Jefferson County Parkway  
Golden, Colorado 80419-5500

Frank J. Hutfless, Esquire  
Board of County Commissioners of  
Jefferson County  
100 Jefferson County Parkway  
Golden, Colorado 80419

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Washington, D.C. 20037



---

Brenda Scott, Legal Secretary

# Ex Parte Filing

**STEPTOE & JOHNSON LLP**

**ATTORNEYS AT LAW**

Marc A. Paul  
202.429.6484  
mpaul@steptoe.com

**EX PARTE OR LATE FILED**

1330 Connecticut Avenue, NW  
Washington, DC 20036-1795

Telephone 202.429.3000  
Facsimile 202.429.3902  
www.steptoel.com

June 9, 2000

**BY HAND DELIVERY**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
The Portals, 445 12th Street, S.W.  
Washington, DC 20554

**RECEIVED**

**JUN - 9 2000**

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

**Re: Notice of Ex Parte Presentation -- Attendance by FCC Personnel at Test Site  
Call-sign WA9XHY, File No. 0418-EX-ST-1999**

Dear Ms. Salas:

EchoStar Satellite Corporation and DIRECTV, Inc. (collectively "the DBS Operators") hereby submit for filing in the above-referenced proceeding its notice of two meetings with FCC Staff on June 6 and June 7, 2000.

At the request of FCC staff, representatives from the DBS Operators met on June 6, 2000 with the following FCC Staff from the Office of Engineering and Technology ("OET"): Tom Derenge, Bruno Pattan, Saj Durrani, Walid Kassem, Michael Marcus, Jennifer Burton, James Burtle, Rodney Small, Julius Knapp and Sankar Persaud. At this meeting at the test site in Oxon Hill, MD, the DBS Operators explained the method and demonstrated the collection of data in connection with the above-referenced experimental special temporary authorization.

On June 7, 2000, the following FCC Staff from OET, the International Bureau and the Wireless Telecommunications Bureau attended additional testing by the DBS Operators at the Oxon Hill site: Jim Burtle, Thomas S. Tycz, John Martin, Tom Stanley, Kal Krantkramer and Alex Roytblat.

Pursuant to Section 1.1206(b) of the Commission's Rules, an original and one

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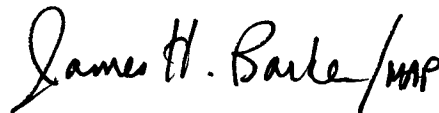
Ms. Magalie Roman Salas  
June 9, 2000  
Page 2

copy of this notice are being filed with the Secretary, and an additional copy is being served on all parties involved.

Sincerely,



Marc A. Paul  
*Counsel to EchoStar Satellite Corporation*



James H. Barker  
*Counsel to DIRECTV, Inc.*

cc: Tom Derenge  
Bruno Pattan  
Saj Durrani  
Walid Kassem  
Michael Marcus  
Jennifer Burton  
James Burtle  
Rodney Small  
Julius Knapp  
Sankar Persaud  
Thomas S. Tycz  
John Martin  
Tom Stanley  
Kal Krantkramer  
Alex Roytblat  
David H. Pawlik  
Brian D. Weimer



**Michelle Lawrence**

District No. 1

**Patricia B. Holloway**

District No. 2

**Richard M. Sheehan**

District No. 3

June 2, 2000

**VIA HAND DELIVERY**

Ms. Magalie Roman Salas, Secretary  
Federal Communications Commission  
Designated Counter TW-A325  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: FCC Public Notice DA 00-764/Disclosure of Ex Parte Presentations

Dear Ms. Salas:

This is notice that Jefferson County made ex parte oral presentations to the following FCC personnel in the above-captioned proceeding on June 1 and 2, 2000. The presentations concerned issues raised by the Petition for Expedited Relief and Declaratory Ruling filed by Lake Cedar Group LLC in the above-captioned matter and largely repeated arguments and information included in Jefferson County's filings of record in this matter. Specifically, the presentations addressed Jefferson County's decision making process regarding land use applications in general and Lake Cedar Group's rezoning request in particular. The presentations also addressed the status of the Colorado state court lawsuit arising out of the rezoning denial, and the status of digital television applications and facilities in Jefferson County. Finally, the presentations addressed jurisdictional and practical issues raised by Lake Cedar Group's preemption request and FCC procedures applicable to request for preemption.

FCC personnel contacted:

~~June 1, 2000~~

Rick Chessen, Office of Commissioner Tristani

Linda Yen, Office of Commissioner Tristani

Marni Weiss, Office of Commissioner Tristani

Deborah Klein, Cable Service Bureau

Rosalind Allen, Office of Plans and Policy

Bruce Romano, Mass Media Bureau

Commissioner Ness

Mark Schneider, Office of Commissioner Ness

Commissioner Furtchgott-Roth

Tracy Marshall, Office of Commissioner Furtchgott-Roth

Marsha McBride, Office of Commissioner Powell

Zachary Stewart, Office of Commissioner Powell

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JUN 6 2000

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Ms. Magalie Roman Salas, Secretary  
June 2, 2000  
Page 2

FCC personnel contacted:

June 2, 2000  
Karen Oneije, Office of Chairman Kennard  
Roy Stewart, Mass Media Bureau  
Bruce Romano, Mass Media Bureau

Jefferson County personnel involved in the ex parte presentation were Richard Sheehan and Marily Nixon.

Enclosed is an original plus one copy of this disclosure. If you have any questions regarding this disclosure, I can be reached at 303-271-8900. Thank you.

Sincerely yours,

  
Marily Nixon  
Assistant County Attorney

MN/kh

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JUN 6 2000

FCC MAIL ROOM

CERTIFICATE OF MAILING

I, Kay Harrison, certify that on the 2nd day of June, 2000, a true and correct copy of the disclosure was mailed to the following:

Rick Chessen, Office of Commissioner Tristani  
Linda Yen, Office of Commissioner Tristani  
Marni Weiss, Office of Commissioner Tristani  
Deborah Klein, Cable Service Bureau  
Rosalind Allen, Office of Plans and Policy  
Bruce Romano, Mass Media Bureau  
Commissioner Ness  
Mark Schneider, Office of Commissioner Ness  
Commissioner Furchgott-Roth  
Tracy Marshall, Office of Commissioner Furchgott-Roth  
Marsha McBride, Office of Commissioner Powell  
Zachary Stewart, Office of Commissioner Powell  
Roy Stewart, Mass Media Bureau  
Karen Oneije, Office of Chairman Kennard

Kay Harrison

RECEIVED

JUN 6 2000

FCC MAIL ROOM

# Congressionals

# Congress of the United States

Washington, DC 20515

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PV  
WRC  
3788

JUN 7 1 05 PM '00

May 9, 2000

The Honorable William E. Kennard  
Chairman  
Federal Communications Commission  
1919 M Street NW  
Washington, DC 22054

Dear Chairman Kennard,

This letter is intended as a public comment to Docket DA00-764 on the petition for preemption filed by the Lake Cedar Group, LLC (LCG) on the siting of broadcast facilities on Lookout Mountain near Denver, Colorado.

As you know, the Jefferson County Board of Commissioners denied an application by LCG to rezone land on Lookout Mountain from residential and agricultural zoning to planned development zoning in order to construct a telecommunications tower and support facilities.

The Jefferson County Board of Commissioners spent several months holding hearings, accepting public comments, and reviewing documentation submitted by all parties involved before arriving at their decision to deny this application. The State of Colorado has an appellate process in place for LCG to judicially appeal the Board's decision. LCG has utilized that process and will receive a decision on its appeal in the next several months.

The Colorado General Assembly recently passed Senate Joint Resolution 31, which supports the power of local government to make land-use decisions and supports the state judicial processes, as the legislature's public comment on this matter. We share the concerns of our state legislators and encourage the Federal Communications Commission to show deference to local government land use decision-making and our state's judicial processes.

The Telecommunications Act of 1996 provided directions to the FCC for implementing digital television. Under FCC rules developed in accordance with the Act, Denver metro area television stations were required to provide a digital signal by last November. We know that the federal mandate for digital television has no direct relationship to tower siting issues, which are primarily issues that should be decided locally. We also know that if the Jefferson County Board of Commissioners' decision is allowed to stand, the Denver television broadcasters are still bound by federal mandate to transmit digital television. Therefore, we support efforts by all interested parties to agree upon a solution that will take into account needs of area viewers as well as the interests of residents living near proposed sites.

Thank you for your consideration of these comments, and for conducting the Commission's deliberations in an open and public manner. We look forward to your response to our concerns.

Sincerely,

Tom Tanenbach

Nash Udall

Paul H. H. H.

Diana Blatter

Samuel

Wayne Alford

\_\_\_\_\_

\_\_\_\_\_